LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7051
BILL NUMBER: HB 1268

NOTE PREPARED: Jan 8, 2010
BILL AMENDED:

SUBJECT: Railroad Redevelopment Zones.

FIRST AUTHOR: Rep. Koch
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill authorizes the Indiana Economic Development Corporation (IEDC) to designate Railroad Redevelopment Zones along freight rail lines that are the subjects of petitions to the Federal Surface Transportation Board for permission to discontinue freight rail service on the rail line or to abandon the rail line. It provides that certain businesses and their employees are entitled to certain tax incentives as if the business were located in an Enterprise Zone. It provides for the administration of the Railroad Redevelopment Zones by the Board of the IEDC. It provides that incentive recipients are subject to a fee imposed by the Board. The bill also requires the Indiana Department of Transportation (INDOT) to update the state's rail plan before January 1, 2012.

Effective Date: July 1, 2010; January 1, 2011.

Explanation of State Expenditures: *Department of State Revenue (DOR)*: The DOR will have to revise tax forms, instructions, and computer programs to reflect the addition of any Railroad Redevelopment Zones designated by the IEDC. The DOR's current level of resources should be sufficient to implement this change.

Indiana Economic Development Corporation (IEDC): This bill allows the IEDC Board to designate Railroad Redevelopment Zones. The IEDC is required to administer the Railroad Redevelopment Zone Program, monitor and evaluate the zones on an annual basis, and adopt rules. The IEDC will have to develop applications and grant allocation guidelines for the program. The IEDC will administer the new Railroad Redevelopment Zone Fund; however, the bill provides that the expenses incurred as a result of administration of the fund will be paid from the fund. In order to administer the new program, the bill provides that the IEDC may employ staff and contract for services. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Indiana Department of Transportation (INDOT): The bill requires INDOT to update the state's rail plan to comply with all requirements imposed by the Federal Railroad Administration before January 1, 2012. INDOT is currently in the process of working to achieve this goal, and they believe it will be accomplished within this time frame.

Explanation of State Revenues: *Railroad Redevelopment Zones*: This bill provides that certain areas may be designated by the IEDC as Railroad Redevelopment Zones effective January 1, 2011. If so designated, several tax incentives would be available for the Railroad Redevelopment Zones that are available to Enterprise Zones, including the Enterprise Zone Investment Deduction for Property Taxes, the Employment Tax Deduction, the Employment Expense Credit, the Loan Interest Credit, the Neighborhood Assistance Credit, and the Investment Cost Credit. The income tax incentives, which are effective for tax year 2011, may be taken against Adjusted Gross Income (AGI), Financial Institutions, or the Insurance Premiums Tax liabilities, which would serve to reduce revenue to the General Fund in FY 2012 by an indeterminable amount.

Railroad Redevelopment Zone Fund: This bill establishes the non-reverting Railroad Redevelopment Zone Fund, which will be administered by the IEDC. The expenses incurred as a result of administration of the fund will be paid from the fund. The fund will also pay the nonrecurring administrative expenses of the Railroad Redevelopment Zone Program and provide grants for brownfield remediation in Railroad Redevelopment Zones. If the IEDC Board designates areas as Railroad Redevelopment Zones, businesses located in the zones will have to pay a fee equal to the amount required for enterprise zone businesses, which is currently 1% of the tax incentives claimed. This fee would be deposited in the Railroad Redevelopment Zone Fund.

Penalty Provision: The statutes establishing Enterprise Zones provide that if confidential information received by the IEDC Board, DOR, IEDC, the Department of Local Government Finance (DLGF), a county auditor, a township assessor, or county assessor is disclosed to unauthorized persons, it is a Class A misdemeanor. Such violations concerning information and records related to Railroad Redevelopment Zones would be subject to this penalty as well. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is $5,000. However, any additional revenue would likely be small.

<u>*Background Information*</u> -*Employee Tax Deduction*: This tax deduction is for qualified employees of an Enterprise Zone business. The qualified employee is an individual who is employed by a taxpayer where the employee's principal place of residence is in the Enterprise Zone where the employee is employed. Qualified employees include employees of a financial institution, insurance company, and an international banking facility. Also included are employees of a nonprofit entity, the state, a political subdivision, or the United States Government. The qualified employee is entitled to a deduction from their AGI equal to the lesser of; (1) half of the AGI for the taxable year earned as a qualified employee; or (2) $7,500.

In tax year 2007, 3.989 individuals claimed about $26.2 M in deductions for qualified Enterprise Zones.

Employment Expense Credit: This credit is for employers that hire qualified employees that live and work half of the time in the Enterprise Zone. The credit is equal to the lesser of 10% multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or $1,500 multiplied by the number of qualified employees employed by the taxpayer during the taxable year. The tax credit can be carried forward for 10 years or carried back for 3 years.

For tax year 2007, 235 individuals claimed about $600,000 in credits for qualified Enterprise Zones, and 40 corporate taxpayers claimed about $872,000 in Employment Expense Credits for qualified Enterprise Zones.

Loan Interest Credit: The Loan Interest Credit is a nonrefundable tax credit that a taxpayer may claim against the AGI Tax, the Financial Institutions Tax, or the Insurance Premiums Tax. It is equal to 5% of the interest a taxpayer receives during the taxable year on qualified loans to businesses or individuals for specified uses in an Enterprise Zone. The credit can be carried forward for 10 years.

In tax year 2007, 72 individual taxpayers claimed about $76,000 in Loan Interest Credits for qualified Enterprise Zones. Twenty corporate taxpayers claimed about $2.5 M in credits for qualified Enterprise Zones for tax year 2007.

Neighborhood Assistance Credit: The Neighborhood Assistance Credit is for Indiana taxpayers who contribute to individuals, groups, or neighborhood organizations or who engage in activities to upgrade economically disadvantaged areas for economically disadvantaged households. This credit is limited to the lesser of 50% of the amount contributed or invested, state income tax due, or $25,000 in any taxable year. The credit can be applied against the taxpayer's AGI tax or Financial Institutions Tax liabilities. The tax credit may not be refunded, carried back, or carried forward. The total amount of Neighborhood Assistance Credit allowed to all taxpayers in any state fiscal year is limited to $2.5 M.

In tax year 2007, 3,488 individual taxpayers claimed about $2.2 M in credits. For tax year 2007, 6 corporate taxpayers claimed about $9,650 in Neighborhood Assistance Credits.

Investment Cost Credit: Under current statute, the Investment Cost Credit may be claimed against the AGI Tax by taxpayers purchasing an ownership interest (an equity investment) in an Enterprise Zone business. The Investment Cost Credit is equal to a maximum of 30% of the equity investment. The credit percentage allowed (up to 30%) varies depending upon the type of investment, the type of business, and the number of jobs created. The credit is nonrefundable, but a taxpayer may carry over excess credits to subsequent taxable years.

In tax year 2007, 40 individual taxpayers claimed about $170,000 in Investment Cost Credits for qualified Enterprise Zones. Data for corporate taxpayers was not available.

Revenue from the AGI Tax on individuals and corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund.

Explanation of Local Expenditures: *Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

Explanation of Local Revenues: *Enterprise Zone Investment Deduction*: Under this bill, the IEDC may designate certain areas as Railroad Redevelopment Zones, which would make certain qualified investments in the zones eligible for the Enterprise Zone Investment Deduction. This provision would apply to assessments made beginning in March, 2011 and property taxes first due and payable beginning in 2012.

Including areas designated as Railroad Redevelopment Zones may result in an increase in deductions claimed. Additional deductions reduce the assessed value tax base. This causes a shift of the property tax burden from the taxpayers receiving the deduction to all taxpayers in the form of an increased tax rate.

Employee Tax Deduction: Because the Employee Tax Deduction would decrease taxable income, counties imposing local option income taxes may experience a decrease in revenue from these taxes if areas within the counties are designated as Railroad Redevelopment Zones.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Background Information - *Enterprise Zone Investment Deduction*: This is a property tax deduction for the increased value of an Enterprise Zone business property due to real and personal property investment by the business. The added valuation may be deducted for up to 10 years. Qualified investment at an Enterprise Zone location includes: (1) purchase of a building, new manufacturing or production equipment, or new computers and related office equipment; (2) costs associated with the repair, rehabilitation, or modernization of an existing building and related improvements; (3) onsite infrastructure improvements; (4) construction of a new building, and (5) costs associated with retooling existing machinery.

In CY 2009, approximately $10 M in investment deductions was claimed for real property, and about $96.8 M in investment deductions was claimed for personal property in qualified Enterprise Zones.

State Agencies Affected: DOR; IEDC; INDOT; DLGF.

Local Agencies Affected: Counties with local option income taxes; Trial courts, Local law enforcement agencies.

Information Sources: OFMA Income and Property Tax Databases; Jeff Spalding, INDOT, 317-233-5145

Fiscal Analyst: Jessica Harmon, 317-232-9854.